IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C. W. P. No. 1018 of 2007
Date of Decision: January 22, 2007

Bhim Sen .....Petitioner

Versus

Union of India and others .....Respondents

Coram: Hon'ble Mr.Justice J.S.Khehar
Hon'ble Mr.Justice S.D. Anand

Present: Mr. K.S.Dadwal, Advocate for the petitioner.

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J.S. KHEHAR , J. (oral)

Through the instant writ petition, petitioner is claiming pension under the Swatantrata Sainik Samman Pension Scheme, 1980.

According to the learned counsel for the petitioner, in Swantantra Sainik Samman Pension Scheme,1980 (Annexure P5), paragraph 4 delineates the persons eligible for the grant of pension. The substantive paragraph 4, of the aforesaid Scheme, is being extracted here under:-

" 4. WHO IS ELIGIBLE

For the purpose of grant of Samman pension under the Scheme, a freedom fighter is:-

(a) A person who had suffered a minimum imprisonment of six months in the mainland jails before independence. However, ex-INA personnel will be eligible for pension

if the imprisonment/detention suffered by them was outside India.

(b) The minimum period of actual imprisonment for eligibility of pension has been reduced to three month, in case of women and SC/ST freedom fighters from 1.8.1990."

Learned counsel for the petitioner while referring to clause(a) of paragraph 4 emphatically submits, that since the petitioner has been in prison for a period of exceeding six months, he was eligible for pension under the Swatantrata Sainik Samman Pension Scheme, 1980.

In response to our querry, whether a person who has been convicted of murder and has remained in prison for a period exceeding six months would also be entitled to pension under the aforesaid Scheme, learned counsel for the petitioner responded in the negative. It is, therefore, apparent that the imprisonment suffered, for the purpose of eligibility under the aforesaid Scheme, has to be in connection with the freedom movement. In order to determine whether the petitioner is eligible for pension under the scheme, it would be essential to determine, whether the petitioner had remained under detention in connection with the freedom movement.

In the aforesaid context, it is apparent from the pleadings of the instant writ petition, that the petitioner remained in jail, on account of his participation in the Urmar Kissan Morcha. Learned counsel for the petitioner has placed on the record of the case a communication dated 8.9.2004 (Annexure P14), its perusal reveals that the Urmar Kissan Morcha has not been recognized as a part of the freedom movement

movement/struggle.

In view of the above, it is apparent that the petitioner had not remained in jail on account of his participation in the independence movement. Accordingly, we are of the view that the petitioner is not entitled to pension under the Swatantrata Sainik Samman Pension Scheme, 1980.

Dismissed.

(J.S.Khehar)
Judge

(S.D.Anand)
Judge

January 22, 2007

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